DOCUMENT RESUME

ED 461 606 SO 033 574

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|---|---|
| AUTHOR | Lawlor, John M., Jr. |
| TITLE | "United States v. Thomas Cooper": A Violation of the Sedition Law. The Constitution Community: Revolution and the New Nation (1754-1820s). |
| INSTITUTION | National Archives and Records Administration, Washington, DC. |
| PUB DATE | 2001-00-00 |
| NOTE | 21p.; For related lesson plans, see SO 033 572-575 and SO 033 581-582. |
| AVAILABLE FROM | National Archives and Records Administration, 700 Pennsylvania Avenue, N.W., Washington, DC 20408. Tel: 866-325-7208 (Toll Free); e-mail: inquire@nara.gov. For full text: http://www.nara.gov/education/cc/main.html. |
| PUB TYPE | Guides - Classroom - Teacher (052) |
| EDRS PRICE | MF01/PC01 Plus Postage. |
| DESCRIPTORS | Academic Standards; *Freedom of Speech; *Laws; Primary Sources; Secondary Education; Social Studies; *United States History |
| IDENTIFIERS | First Amendment; National Civics and Government Standards; National History Standards; *Sedition; United States Constitution |

ABSTRACT

This lesson relates to freedom of speech and freedom of the press as provided for in the First Amendment of the U.S. Constitution. The lesson correlates to the National History Standards and the National Standards for Civics and Government. It presents seven primary source documents regarding Thomas Cooper's trial for sedition in 1800. Cooper was a lawyer and newspaper editor in Sunbury, Pennsylvania who was indicted, prosecuted, and convicted of violating the Sedition Act after he published a broadside that was sharply critical of President John Adams. The lesson gives an overview of the Sedition Act of 1798, which made it illegal to criticize the government under penalty of fines and/or imprisonment. The lesson provides nine detailed teaching activities for implementation in the classroom. Attached is a sample written document analysis worksheet. (BT)

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# THE CONSTITUTION COMMUNITY

**Revolution and the New Nation (1754-1820s)**

# *United States* v. *Thomas Cooper*: A Violation of the Sedition Law

By John M. Lawlor, Jr.

SO 033 574

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The Constitution Community is a partnership between classroom teachers and education specialists from the National Archives and Records Administration. We are developing lessons and activities that address constitutional issues, correlate to national academic standards, and encourage the analysis of primary source documents. The lessons that have been developed are arranged according to historical era.

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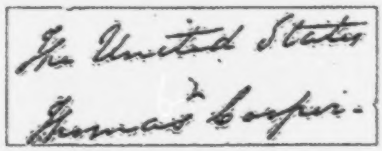
# *United States v. Thomas Cooper* : A Violation of the Sedition Law




## Constitutional Connection

This lesson relates to freedom of speech and freedom of the press as provided for in the First Amendment of the U.S. Constitution.

## This lesson correlates to the National History Standards.

**Era 3** -Revolution and the New Nation (1754-1820s)

- **Standard 3A** -Demonstrate understanding of the issues involved in the creation and ratification of the United States Constitution and the new government it established.
- **Standard 3B** -Demonstrate understanding of the guarantees of the Bill of Rights and its continuing importance.

## This lesson correlates to the National Standards for Civics and Government.

**Standard III. B. 1** -Evaluate, take, and defend positions on issues regarding the purposes, organization, and functions of the institutions of the national government.

**Standard III. D. 1.** -Evaluate, take, and defend positions on the role and importance of law in the American political system.

**Standard V. B. 1.** -Evaluate, take, and defend positions on issues regarding personal rights.

## Cross-curricular Connections

Share this lesson with your history, government, and language arts colleagues.

## List of Documents

1. Newspaper Broadside Filed in *United States v. Thomas Cooper*
2. Judge Richard Peter's Letter to the U.S. Marshal (the warrant)
3. Indictment ( page 1 , page 2 , page 3 )
4. Thomas Cooper's Plea of "Not Guilty"
5. Subpoenas ( number 1 , number 2 )
6. Verdict (Sentencing of Thomas Cooper)
7. Details of Thomas Cooper's sentence

## Historical Background

In the period following the ratification of the Constitution, the government of the United States was under Federalist control, first with George Washington and then under the presidency of John Adams. John Adams (1797-1801) and the Federalists, fearful of internal dissent while embroiled in international conflict with France, sought to reduce effective opposition through the enactment of a series of laws by Congress known as the Alien and Sedition Acts.

Under the Sedition of Act of 1798, it was illegal to criticize the government of the United States under penalty of fines and/or imprisonment.

Thomas Cooper, a lawyer and newspaper editor in Sunbury, Pennsylvania, was indicted, prosecuted, and convicted of violating the Sedition Act after he published a broadside that was sharply critical of President Adams. In part, Cooper was reacting to an article about himself that had appeared in the *Reading* (Pennsylvania) *Advertiser* . The case went to court in Philadelphia in April 1800.

Clearly a tool for political repression, the Sedition Act was later repealed after Thomas Jefferson won the presidency. Future iterations of similar legislation that restrained free speech would be struck down through the process of judicial review. Before this, however, speaking out in opposition to governmental policies could have serious legal repercussions as seen in the case of *United States v. Thomas Cooper* .

Note: For a detailed examination of the Alien and Sedition Acts see Miller, John C. *Crisis in Freedom: The Alien and Sedition Acts* . Boston: Atlantic-Little Brown,1951.

## Teaching Activities

1. Instruct students to review the general information about the Alien and Sedition Acts in their textbook and compare it to the First Amendment of the Constitution. Lead a class discussion in which the students explain the differences and similarities between the act and the amendment.

2. Divide the students into seven groups and distribute one document to each group. Ask student groups to read and analyze their document using the Written Document Analysis Worksheet . Direct one representative from each group to report their analysis to the class. Assign students to write a one-page synopsis of the Thomas Cooper story as revealed by the documents.

3. Divide the students into four groups. Assign each group to read one column of the broadside (document 1) entitled "To The Public." Instruct the students to list on butcher paper any passages that question or challenge the government or the president of the United States. Ask students to post their lists.

4. Ask the students to compare their lists compiled in activity #3 to that enumerated in Judge Peters's indictment. Ask them if they can identify the statements in the broadside from which the charges listed in indictment were drawn? (Note: Peters did not hear the case; Associate Justice Samuel P. Chase did.)

5. After reading the indictment of Cooper, lead a class discussion using the following questions: Were charges brought against Cooper for opinions that were personal or political in nature? Did Cooper attack John Adams and the Federalist government on the basis of personalities or politics? Explain to the students that a personal (ad hominem) attack, for example, might be to call the president a cheater or liar. A political attack would be one that is critical of a governmental policy. It is possible to use both personal and political attacks at the same time.

6. Ask students to pretend that they are Thomas Cooper. Ask them to write a journal entry in which they reveal the defense Cooper planned to use in his "Not Guilty" plea, list the people whom he wanted to serve with subpoenas, and explain why the people who were to be subpoenaed were critical to his defense.

7. Ask students to determine how severe Cooper's sentence was. (To determine this, students will have to find out how to convert the value of an 1800 dollar to the value of a dollar today. As far as prison goes, you can assume that prisons in general were much more primitive in 1800 than today.)

8. Ask students to find a statement in the media (print, video, or audio) that criticizes the current president of United States or one of the president's policies and bring it to class. Direct the students to discuss whether the statements they found would have been subject to criminal investigation if they had been made in 1799. Let the students determine if the statements they found were "harsher" or more critical of the president than any statements

that were found in the Cooper case. Finally, ask the students to explain if criticism was personal or political in nature.

9. Instruct each student to conduct a poll of 10 of their friends in which they ask: If Congress were considering legislation similar to the Alien and Sedition Acts today, would you support or oppose its passage? Ask students to share the results of their poll with the class. Discuss with students the reasons for the reactions.

The documents included in this project are from Record Group 21, Records of the District Courts of the United States. They (and others related to the case) are available online through the National Archives Information Locator (NAIL) database <http://www.nara.gov/nara/nail.html>, by searching keyword "Thomas Cooper." NAIL is a searchable database that contains information about a wide variety of NARA holdings across the country. You can use NAIL to search record descriptions by keywords or topics and retrieve digital copies of selected textual documents, photographs, maps, and sound recordings related to thousands of topics.

Additional documents related to *United States* v. *Thomas Cooper* are available in the Bill of Rights Teaching Packet available for purchase from the National Archives.

This article was written by John M. Lawlor, Jr., an instructor at Reading Area Community College in Reading, PA.

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# Written Document Analysis Worksheet

1. TYPE OF DOCUMENT (Check one):

| | | |
|---|---|---|
| ___ Newspaper | ___ Map | ___ Advertisement |
| ___ Letter | ___ Telegram | ___ Congressional record |
| ___ Patent | ___ Press release | ___ Census report |
| ___ Memorandum | ___ Report | ___ Other |

2. UNIQUE PHYSICAL QUALITIES OF THE DOCUMENT (Check one or more):

| | |
|---|---|
| ___ Interesting letterhead | ___ Notations |
| ___ Handwritten | ___ "RECEIVED" stamp |
| ___ Typed | ___ Other |
| ___ Seals | |

3. DATE(S) OF DOCUMENT: _____

4. AUTHOR (OR CREATOR) OF THE DOCUMENT: _____

POSITION (TITLE): _____

5. FOR WHAT AUDIENCE WAS THE DOCUMENT WRITTEN? _____

_____

6. DOCUMENT INFORMATION (There are many possible ways to answer A-E.)

A. List three things the author said that you think are important:

1. _____
2. _____
3. _____

B. Why do you think this document was written?

_____

_____

C. What evidence in the document helps you know why it was written? Quote from the document.

_____

_____

D. List two things the document tells you about life in the United States at the time it was written:

_____

_____

E. Write a question to the author that is left unanswered by the document:

_____

_____

_____

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# The Evidence

## Document 1: Newspaper Broadside Filed in *United States v. Thomas Cooper*

To the PUBLIC.

TO THE PRINTER.



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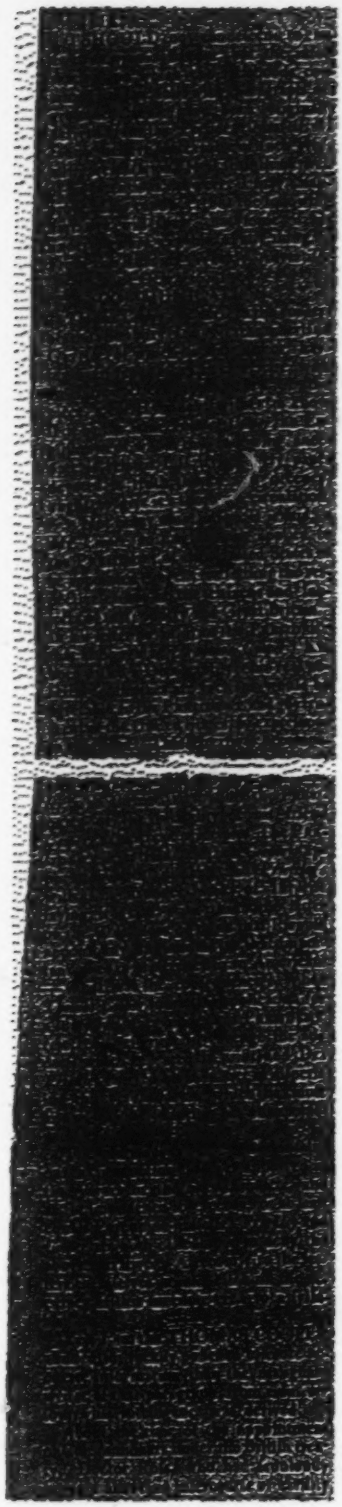

**Document 1, Column 1**

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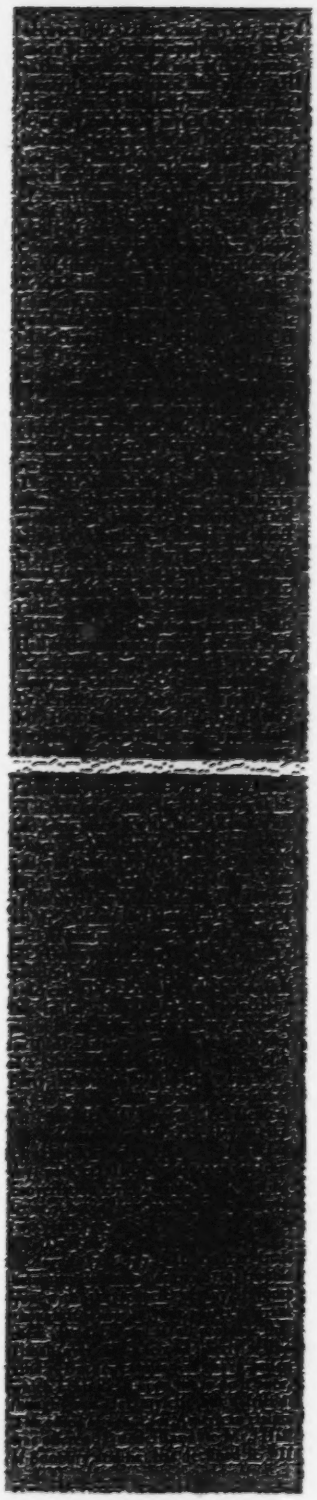

**Document 1, Column 2**

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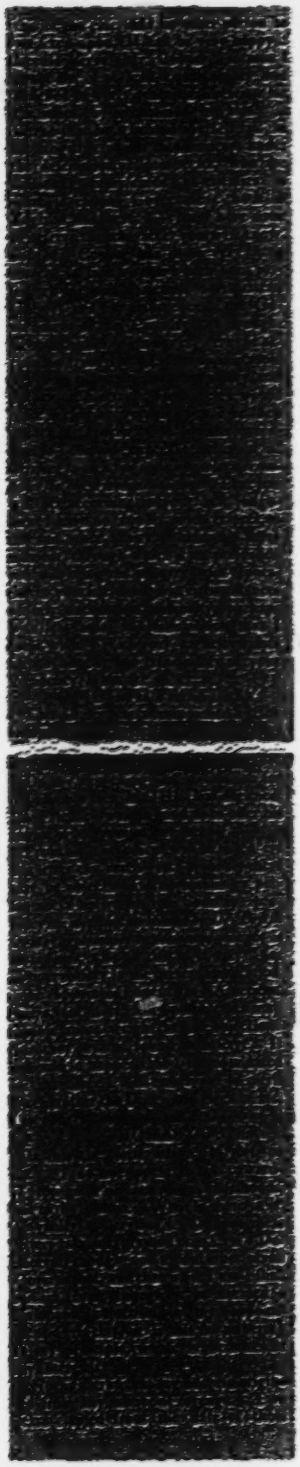

**Document 1, Column 3**

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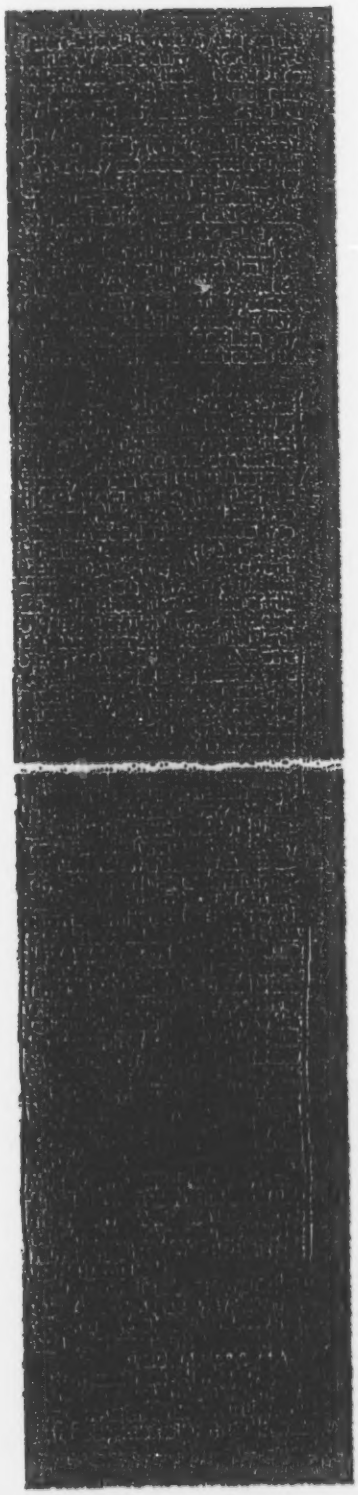
**Document 1, Column 4**



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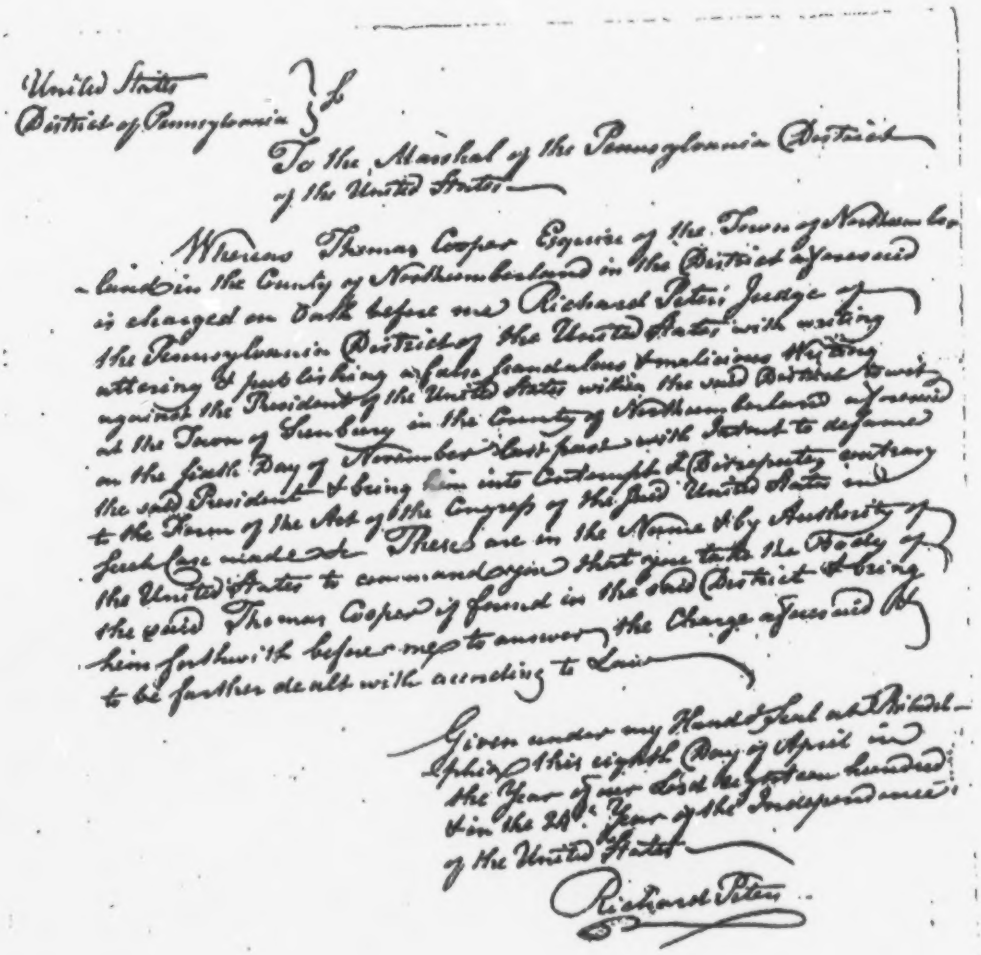

United States
District of Pennsylvania } ss

To the Marshal of the Pennsylvania District
of the United States

Whereas Thomas Cooper Esquire of the Town of Northumberland in the County of Northumberland in the District aforesaid is charged on Oath before me Richard Peter Judge of the Pennsylvania District of the United States with writing uttering & publishing a false seditious & malicious Writing against the President of the United States within the said District to wit at the Town of Sunbury in the County of Northumberland aforesaid on the fifth Day of November last past with Intent to defame the said President & bring him into Contempt & Disrepute contrary to the Form of the Act of the Congress of the said United States in such Case made & Provided These are in the Name & by Authority of the United States to command you that you take the Body of the said Thomas Cooper if found in the said District & bring him forthwith before me to answer the Charge aforesaid & to be further dealt with according to Law

Given under my Hand & Seal at Philadelphia this eighth Day of April in the Year of our Lord One thousand seven hundred & ninety nine & in the 24th Year of the Independence of the United States

Richard Peter

**Document 2: Judge Richard Peter's Letter to the U.S. Marshal (the warrant)**

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In the Circuit Court of the United States of America in and for the Pennsylvania District of the Middle Circuit.

The Grand Inquest of the United States of America in and for the Pennsylvania District upon their respective oaths and affirmations do present that Thomas Cooper late of the District of Pennsylvania attorney at law being a person of a wicked and turbulent disposition designing and intending to defame the President of the United States and to bring him into contempt and disrepute and to excite against him the hatred of the good people of the United States on the second day of November in the year of our Lord one thousand seven hundred and ninety seven in the District aforesaid and within the Jurisdiction of this Court wickedly and maliciously did write print utter and publish a false scandalous and malicious writing against the said President of the United States of the tenor and effect following that is to say. Now do I [himself the said Thomas Cooper meaning] see any impropriety in making this request of Mr Adams [meaning John Adams Esquire President of the United States] at this time he [the said President of the United States meaning] had just entered into office he [meaning the said President

**Document 3: Indictment (Page 1)**



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of the United States) was hardly in the infancy of political mistake even those who doubted his capacity (meaning the capacity of the said President of the United States) thought well of his (meaning the said President of the United States) intentions. And also the false scandalous and malicious words of the tenor and effect following that is to say, Non mens mea (meaning the people of the United States) yet saddled with the expence of a permanent navy & threatened under his (meaning the said President of the United States) auspices with the existence of a standing army. Our credit (meaning the credit of the United States) was not yet reduced so low as to borrow money at 9 per cent in time of peace while the unnecessary violence of official expressions would justly have provided a war. And also

the false scandalous and malicious words of the tenor and effect following that is to say Mr Adams (meaning the said President of the United States) had not yet projected his (the said President of the United States meaning) his embassies to Prussia Russia and the Sublime Porte nor had he (the said President of the United States meaning) yet interfered as President of the United

**Document 3: Indictment (Page 2)**

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States to influence the decision of a Court of Justice - a Stretch of authority which the monarch of Great Britain would have shrunk from an interference without precedent against Law and against usage This melancholy case of Sanitan Robbins [illegible] of Boston a forcibly impressed by the British and delivered up with the advice of Mr Adams (meaning the said President of the United States) to the mock trial of a British Court Martial had not yet astonished the Republican citizens of this free country (meaning the United States of America) a case too little known but of which the People (meaning the people of the said United States) ought to be fully apprized before the election and they shall be to the great scandal of the President of the United States to the evil example of others in the like case offending against the form of the Act of the Congress of the United States in such case made and provided and [illegible] against the peace and dignity of the said United States -

J. Wharton attorney of the United States for the Pennsylvania District.

Witness
John Bayer Esqr Jurd

D. Caldwell

Document 3: Indictment (Page 3)

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Circuit Court of the United States for the district of Pennsylvania
Term of April 1800.

The United States
vs
Thomas Cooper } Indictment for Libel under the Sedition Law.

The above named Defendant (protesting against the Innuendoes and constructions in the said Indictment alledged against him) pleads not guilty; and will give the following fact in evidence on the Trial in justification of the supposed Libel stated in the aforesaid Indictment.

I That Mr Adams either by himself or by the Officers of State acting under his authority has given the Public to understand that he will bestow no Office but on persons who conformed to his political Opinions.

II Mr Adams has declared that a Republican Government may mean anything.

III Mr Adams did sanction the Alien Law, and thereby the abolition of the Trial by Jury in the Cases that fall under that Law.

IV Mr Adams did sanction the Sedition Law & thereby enthroned his public character behind the Legal Provisions of that Law.

V Under the auspices of Mr Adams the expence of a permanent Army is added on the People

VI Under the auspices of Mr Adams we are threatened with the evils of a standing Army.

VII The Government of the United States has borrowed Money at 8 per Cent in time of Peace

VIII The unnecessary Victims of official Despotism made by Mr Adams, and those in authority under him, & his adherents, might justly have provoked a Nero.

IX Political Apostacy has been practised by those who call themselves his friends and adherents.

X Mr Humphries after being convicted of an assault and Battery upon Benjamin Franklin Bache the printer of the Aurora merely from political motives, was before his Sentence was expired, promoted by Mr Adams to a public Office viz to carry dispatches to Prussia

XI Mr Adams did project and put in execution embassies to Prussia Russia and the Sublime Porte.

XII Mr Adams in the case of Jonathan Robbins alias Nash did wish to influence the decision of a Court of Justice.

Thomas Cooper

**Document 4: Thomas Cooper's Plea of "Not Guilty"**



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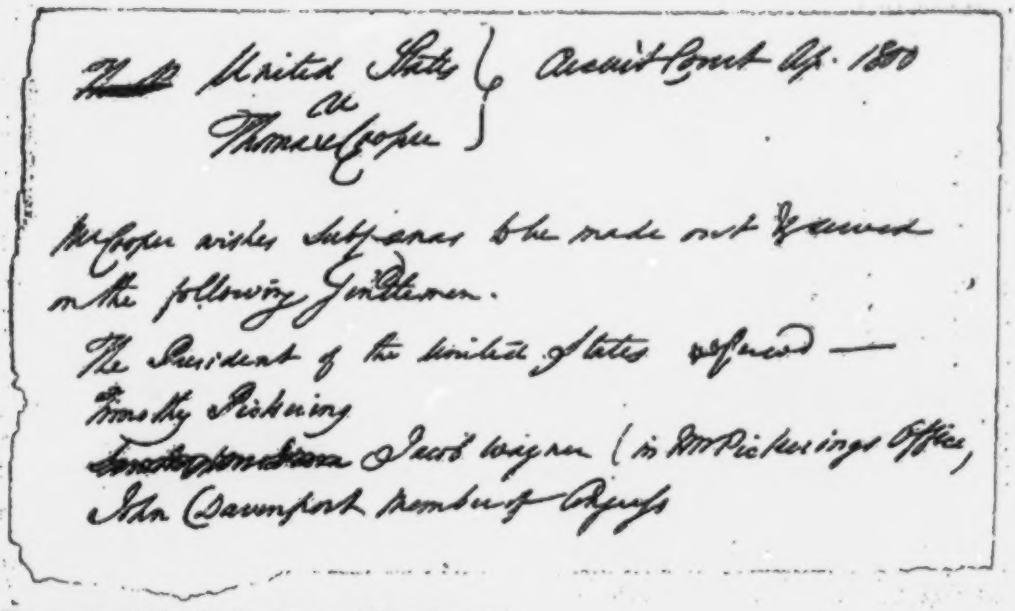


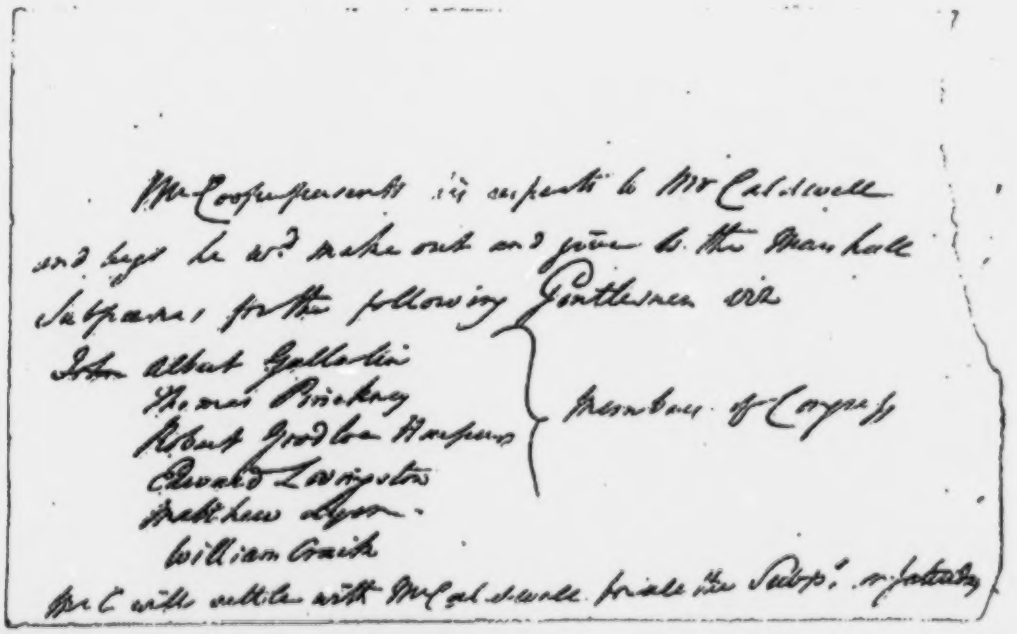
The United States
vs
Thomas Cooper

Circuit Court Oct. 1800

Mr Cooper wishes subpoenas to be made out & issued on the following Gentlemen.

The President of the United States desired —
Timothy Pickering
~~Senator from Massachusetts~~ Secretary of State (in Mr Pickerings Office)
John Davenport Member of Congress

**Document 5: Subpoenas (Number 1)**



Mr Cooper presents his respects to Mr Caldwell and begs he will make out and give to the Marshall Subpoenas for the following Gentlemen viz

John Albert Gallatin
Thomas Pickering
Robert Goodloe Harper
Edward Livingston
Matthew Lyon
William Smith
} Members of Congress

Mr C will settle with Mr Caldwell for the Subpoenas on Saturday

**Document 5: Subpoenas (Number 2)**

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In the Circuit Court of the United States in and for the Pennsylvania District of the Middle Circuit -

The United States } Sur. Indictment for a
Thomas Cooper. } Libel - Capt. Sept: 1800.

And now to wit on this twenty fourth Day of April one thousand and eight hundred - It is adjudged by the Court that the said Thomas Cooper pay a Fine of four hundred Dollars & be imprisoned for the Space of six Months & that he enter into Recognizance with Security, himself in one thousand Dollars and two Sureties in five hundred Dollars each, for his good Behaviour for one Year after the Term of Imprisonment expires - and that he stand committed till this Sentence be complied with -

**Document 6: Verdict (Sentencing of Thomas Cooper)**

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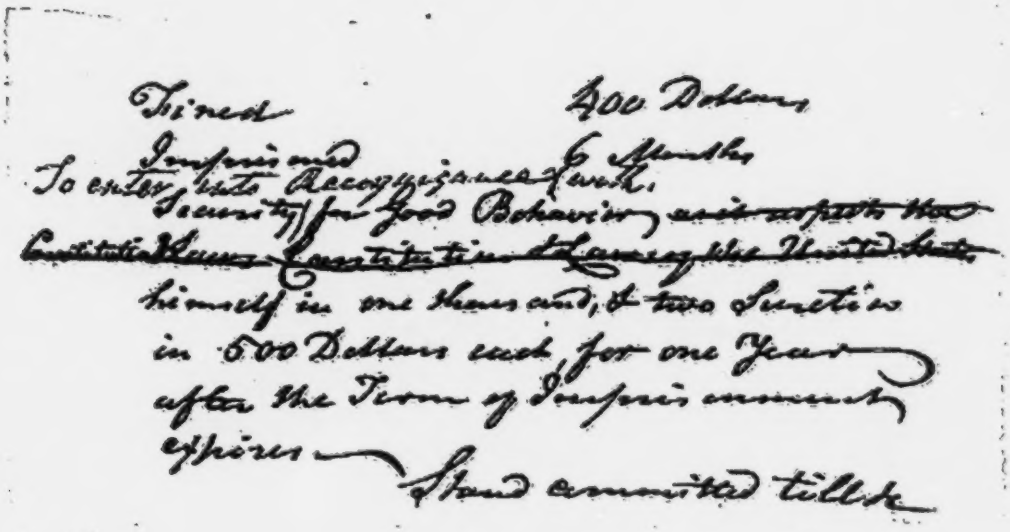
Fined 400 Dollars
Imprisoned 6 Months
To enter into Recognizance with Security for good Behavior ~~and conform to the Constitutional Laws and Constitution of the Commonwealth of the United States~~ himself in one Thousand, & two Sureties in 500 Dollars each for one Year after the Term of Imprisonment expires — Stand committed till &c

**Document 7: Details of Thomas Cooper's Sentence**

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